REMARKS/ARGUMENTS

This Amendment is intended to fully respond to the first Office Action dated October 6, 2003. In that Office Action, claims 1-20 were examined and all were rejected. More specifically, claims 1-3, 5-7, and 10-12 were rejected under 35 U.S.C. § 102(e) as being anticipated by Grossman (US Pat. Pub. No. 2002/0032906 A1); claims 4 and 19-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Grossman in view of Trewitt et al. (USPN 6,134,531); claims 8-9 were rejected under 103(a) as being unpatentable over Grossman in view of Rosser (USPN 6,446,261); claims 13-18 were rejected under § 103(a) as being unpatentable over Grossman in view of Trewitt et al. and Rosser; and claims 6, 9, 10, and 16 were objected to because of informalities.

Claims 1, 6, 8, 9, 13, 16, 19 have been amended. Claims 21 and 22 have been added. Claims 2 and 15 have been canceled. Claims 1, 3-14, and 16-22 remain pending and are believed allowable for at least the reasons set forth below. As such, Applicant respectfully requests reconsideration of the aforementioned objections and rejections in view of these amendments and the following remarks.

Claim Objections

Claim 6 has been objected to because of the following informalities: The method of --claim 4-- should be corrected as --claim 5-- instead, because the viewer's action log" referred to herein, it does not exist either in claim 4 or in claim 1 but in claim 5. Claim 6 has been amended and thus it is believed that this objection has been obviated.

Claim 9 has been objected to because of the following informalities: The method of --claim 6-- should be corrected as --claim 8-- instead, because "the set-top box" referred to herein, it does not exist in claim 6 but in claim 8. Claims 8 and 9 have been amended and thus it is believed that this objection has been obviated.

Claim 10 has been objected to because of the following informalities: The method of --claim 1-- should be corrected as --claim 2-- instead, because "the incentive" referred to herein, it

does not exist in claim 1 but in claim 2. Claim 1 has been amended above to include the subject matter of claim 2 and thus it is believed that this objection has been obviated.

Claim 16 has been objected to because of the following informalities: wherein --the network programming-- should be corrected as --the media programming-- to further clarify the claim language. Claim 16 has been amended and thus it is believed that this objection has been obviated.

Claim Rejections - 35 U.S.C. § 102

Claims 1-3, 5-7, and 10-12 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Grossman (US Pat. Pub. No. 2002/0032906 A1). This rejection should be withdrawn in view of the herein amendments and following comments. Grossman does not identically disclose all of the limitations of the claimed invention. In particular, regarding independent claim 1, Grossman does not disclose or suggest a process of evaluating a viewer's performance as the viewer is viewing television programming stream.

The present invention generally relates to systems and methods for providing incentives for viewers to watch advertisements or watch other television programming closely for product placement for better advertisement efficacy. In particular, through the use of the present invention, viewers are provided incentives to focus and concentrate while viewing such programming. In order to reward such focus and concentration, the systems and methods of the present invention must "evaluate performance" of the user. In order to evaluate performance, since the performance is in reaction to a television programming, the systems and methods must evaluate the timing of various viewer responses in order to appropriately evaluate the viewer's performance. In particular, the performance, as described in the present application may involve responding to the display of a product within a predetermined time period after the display of that product. Other skills or performance evaluations may also relate to providing the correct answer within a predetermined time period following the display of an event, e.g., a question.

Grossman relates to a computer/Internet system wherein a user accesses a commercial website for viewing commercials. Upon downloading and viewing the various commercial data streams, the user is prompted to provide answers to survey questions in order to receive reward points and/or coupons. The system is designed to provide an easy way in which advertising

groups can elicit consumer feedback without (a) paying for a commercial spot within a television program and (b) polling consumers who did in fact watch the commercial spot within the television program.

Clearly, Grossman is not utilizing a television programming stream. Instead, the viewer has control of when the commercials will and will not be displayed. Grossman appears to prefer that the users have such control such that users watch full/complete commercials. Consequently, this control provided to the user indicates that the system is clearly different than normal television programming. The motivations behind providing incentives to viewers of television advertisements to focus and watch such advertisements is different from providing a website that viewers can access at any time, at their leisure and start watching commercials. Ad agencies pay money to have their products aired and would prefer that viewers watch them as opposed to turning the channel and/or simply not pay attention to the advertisements. Thus, such streams of data cannot be considered synonymous.

More importantly, the Grossman system does not evaluate viewer performance. The Examiner has indicated that the fact that Grossman provides a buy button, wherein the user must select the buy button within a predetermined period of time or else the viewer is not able to purchase the product. At first blush these two concepts appear similar in that the user in both cases provides a signal during a predetermined time period following the display of an icon. However, the present invention is actually quite different in that it evaluates performance, e.g., the response time between the time which event occurred and when the viewer provided the indicated response. Grossman does not evaluate performance, instead it merely pre-sets a time limit for purchasing an item that is independent of the time when the icon appears on the user-interface. Since the user response time is not compared to the time which the visual element is displayed, no "performance" is measured.

Claim 1, as amended above, more clearly defines the method by which the performance of a viewer is evaluated. That is, since the measurement in time is based on how fast the user responds to an event, the response time must be measured based on the time the event occurs. Grossman does not disclose the measurement of time in response to an event. Moreover, claim 1 has been amended above to include the subject matter of claim 2 as the primary motivation for a

viewer to participate in such an interaction is for the incentives. Grossman does not disclose providing incentives based on viewer performance.

Under 35 U.S.C. § 102, a reference must show or describe each and every element claimed in order to anticipate the claims. *Verdegaal Bros. v. Union Oil Co. of California* 814 F.2d 628 (Fed. Cir. 1987) ("A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.") Since Grossman does not identically disclose, either explicitly or inherently, the claim element relating to evaluating viewer performance, Grossman cannot, as a matter of law, anticipate claim 1. Further, claims 2-3, 5-7 and 10-12 depend directly or indirectly from claim 1 such that these claims should also be allowed over Grossman. Withdrawal of this rejection is respectfully requested. Thus, Grossman cannot, as a matter of law, anticipate claim 1.

Claim Rejections - 35 U.S.C. § 103

Claims 4 and 19-20 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Grossman in view of Trewitt et al. (USPN 6,134,531).

The combination of Grossman and Trewitt et al. does not render the subject invention as recited in claim 4-6 obvious since a prima facie case of obviousness requires first and foremost that the cited references disclose ***all*** the elements of the claimed invention. See MPEP § 706.02(j). As noted above, Grossman does not disclose evaluation of viewer performance or providing incentives based on such performance as in the subject claims. Trewitt does not make up for the aforementioned deficiencies of Grossman. Trewitt describes a method time stamping user responses to synchronize the same with delivered content. The synchronization is purely for data gathering, not performance evaluation, on the server side such that no information is returned to the user, let alone incentives based on performance (as in claim 4) or "rewarding viewer behavior based on the comparison of the time-stamped indicated response..." (as in claims 19 and 20). As a result, the combination of Grossman and Trewitt does not describe or suggest (either alone or in combination) applicants' claimed invention, and this rejection should be withdrawn.

Further, there is no motivation to combine these references. First of all, Grossman does not teach or suggest the use of its system in combination with a television broadcast. Second, given the user control over the display of the content in Grossman, it actually teaches away from the use of "real-time" responses as disclosed and discussed in Trewitt. Even more importantly, Trewitt is only concerned with gathering data and not providing feedback. Consequently, the use of such data to provide feedback is not taught or suggested. Last, and most importantly, even if combined, there is still no motivation extend the teaching of these references to provide analysis of responses to evaluate performance, let alone provide incentives based on the performance. Consequently, it is believed that claims 4 and 19-20 are patentable over Grossman and Trewitt, and reconsideration of the outstanding rejection is respectfully requested.

Claims 8 and 9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Grossman further in view of Rosser (USPN 6,446,261). Applicant respectfully traverses this §103 rejection.

The combination of Grossman and Rosser does not render applicants' invention as recited in claims 8 and 9 obvious. As noted above, Grossman does not disclose evaluation of viewer performance or providing incentives based on such performance as in the subject claims. Rosser does not make up for the aforementioned deficiencies of Grossman. Rosser describes a method using a set top box to receive user commands and create a user profile based on such commands. Nothing in Rosser relates to performance evaluation as required by the pending claims. Consequently, claims 8 and 9 are believe to be allowable and reconsideration of the pending rejection is requested.

Claims 13-18 have been rejected under § 103(a) as being unpatentable over Grossman in view of Trewitt et al. and Rosser. Applicant respectfully traverses this §103 rejection.

The combination of Grossman with Trewitt and Rosser does not render the subject invention as recited in claim 13-18 obvious since a prima facie case of obviousness requires first and foremost that the cited references disclose ***all*** the elements of the claimed invention. See MPEP § 706.02(j). As noted above, Grossman does not disclose evaluation of viewer performance or providing incentives based on such performance as in the subject claims. Trewitt does not make up for the aforementioned deficiencies of Grossman as it does not provide for such a performance evaluation. Likewise, Rosser does not disclose such a performance

evaluation. Consequently, since independent claim 13, as amended, recites providing an incentive based on viewer's response and the response time, i.e., the viewer's performance, claim 13 is allowable over the combination of Grossman, Trewitt and Rosser. Furthermore, since claims 14 and 16-18 depend from claim 13, these claims are also believed to be allowable over the prior art and reconsideration of the pending rejection is requested.

New Claims

New claims 21 and 22 have been added to specifically claim the features of receiving two or more responses from a user in evaluating performance (claim 21) and the opt-in feature described in the specification (claim 22). These claims depend from claim 19 such that these claims are believed to be allowable over the prior art as discussed above.

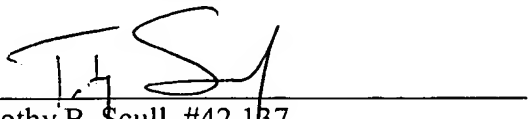
Conclusion

As originally filed, the present application included 20 claims, 3 of which were independent. As amended, the present application now includes 20 claims, 3 of which are independent. Accordingly, it is believed that no further fees are due with this Response. However, the Commissioner is hereby authorized to charge any deficiencies or credit any overpayment with respect to this patent application to deposit account number 13-2725.

In light of the above remarks and amendments, it is believed that the application is now in condition for allowance, and such action is respectfully requested. Should any additional issues need to be resolved, the Examiner is requested to telephone the undersigned to attempt to resolve those issues.

Respectfully submitted,

Dated: 1/6/04



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